

United States International Trade Commission
Washington, D.C. 20436

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In the Matter of:)	
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CERTAIN MINIATURE)	Investigation No. 337-TA-114,
PLUG-IN BLADE FUSES)	Exclusion Order Modification Proceeding
)	

NOTICE OF EXCLUSION ORDER MODIFICATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that changed conditions have caused the U.S. International Trade Commission to modify the trade dress provision of the general exclusion order issued on January 13, 1983, in the above-captioned investigation. In light of certain judicial decisions, the Commission modified that provision by removing a reference to "product configuration" from the description of "trade dress." As a result, the modified provision requires the exclusion of imported miniature plug-in blade fuses having a trade dress, i.e., a packaging, simulating that of Littelfuse, Inc.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3061. General information concerning the Commission, the above-captioned investigation, and the exclusion order modification proceeding also may be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired individuals can obtain information concerning this matter by contacting the Commission's TDD terminal at 202-205-1810.

SUPPLEMENTARY INFORMATION:

The Commission instituted the subject investigation in 1982 to determine whether there was a violation of section 337 of the Tariff Act of 1930 (19 USC § 1337 (1978 and 1981 Supp.)) in the importation or sale of certain miniature plug-in blade fuses that allegedly misrepresented their place of geographic origin, infringed the complainant's patents and/or trademarks, misappropriated the complainant's trade dress, were passed off as merchandise of the complainant, or were the subject of false advertising. The complainant was the patent and trademark owner, Littelfuse, Inc., of Des Plaines, Illinois, a firm that manufactures and markets electronic devices, including the subject fuses.¹ The Commission named nine firms in Taiwan and three domestic firms as respondents in the investigation. 47 FR 1448, Jan. 13, 1982.

The investigation resulted in the issuance of a general exclusion order in 1983, requiring, among other things, the exclusion of imported miniature plug-in blade fuses having a trade dress, i.e., a product configuration and/or packaging, simulating that of complainant Littelfuse. Certain Miniature Plug-In Blade Fuses, Inv. No. 337-TA-114, USITC Publication 1337 (Jan. 1983), Commission Action and Order at page 2, paragraph 2 (Jan. 13, 1983).

¹ Miniature plug-in blade fuses are installed in automobiles as original equipment. They also are sold in the automotive aftermarket, as replacement parts for original equipment.

As the result of a Commission-initiated modification proceeding under 19 CFR 210.76 (see 66 FR 9359, Feb. 7, 2001, and Commission Order (Feb. 1, 2001)), the Commission concluded that conditions which led to the inclusion of product configuration in the trade dress provision of the exclusion order no longer exist. In particular, the product configuration protected by that provision was, by Littelfuse's admission, substantially the same configuration that the U.S. District Court for the Northern District of Georgia, Atlanta Division, found to be functional and not entitled to trademark protection. See the unpublished Judgment and the unpublished Order issued on January 7, 1998 in Civil Action No. 1:95-CV-2445-JTC, Wilhelm Pudenz GmbH [and] Wickmann USA, Inc. v. Littelfuse, Inc. (The U.S. Court of Appeals for the Eleventh Circuit affirmed the District Court's decision. Wilhelm Pudenz GmbH v. Littlefuse [sic], Inc., 177 F.3d 1204, 51 U.S.P.Q.2d 1045 (11th Cir. 1999).)

The Commission accordingly has modified the trade dress provision of its section 337 exclusion order by deleting the reference to product configuration. The modified provision thus requires the exclusion of imported miniature plug-in blade fuses having a trade dress, i.e., a packaging, simulating that of Littelfuse.

Upon request, all nonconfidential documents filed or issued in the investigation or the exclusion order modification proceeding will be made available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Commission's Office of the Secretary, Dockets Branch, 500 E Street, SW., Room 112, Washington, D.C. 20436, telephone 202-205-1802.

In addition, the Final Determination and Commission Order effecting the modification and all nonconfidential documents filed or issued in the modification proceeding are available for inspection on the Commission's website. To access them, go the "ITC RESOURCE PAGE," and then click on "EDIS On-Line for Public File Room."

By Order of the Commission.

Marilyn R. Abbott
Secretary

Issued: March 20, 2002

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